

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

NOLA C. MARQUEZ,

Civil Action File No.

Plaintiff,

5:15-CV-293-MTT

v.

WAL-MART STORES, INC. AND
WAL-MART STORES EAST, LP.,

Defendants.

NOTICE OF REMOVAL

COMES NOW WAL-MART STORES, INC., erroneously named, and WAL-MART STORES EAST, LP., named Defendants in the above-captioned matter, by and through their counsel of record, within the time prescribed by law, and files this Notice of Removal, showing the Court as follows:

1.

The above-named Plaintiff filed suit against Defendant WAL-MART STORES, INC. and WAL-MART STORES EAST, LP. in the State Court of Houston County, Georgia, which is within the Macon Division of this Court. 28 U.S.C.A. § 90 (a)(2). Said lawsuit is styled as above and is numbered as Civil Action File No. 15-V-48757. Plaintiff's claims against Defendant includes claims of negligence.

2.

Plaintiff filed the Complaint on or about April 14, 2015. Defendants WAL-MART STORES, INC. and WAL-MART STORES EAST, LP. received service of summons and a copy of the Complaint on May 6, 2015. Defendants WAL-MART STORES, INC. and WAL-MART STORES EAST, LP. file this notice of Removal within thirty (30) days after Defendant received Plaintiff's First Amendment to Complaint For Damages which itemizes \$34,346.13 in medical bills, (Exhibit "A") and within 30 days of receipt of Plaintiff's Answers to Interrogatories and Response to Request For Production of Documents which disclose that Plaintiff has been diagnosed with an L4-5 disc bulge with annular tear (Exhibit "B") which has required epidural steroid injections and other treatment. Plaintiff further responded to Defendant's Request For Admissions and seeks in excess of \$75,000 (Exhibit "C"). Defendants file this notice of Removal within thirty (30) days after receipt by the Defendant of Plaintiff's Amended Complaint and discovery responses from which it was first ascertained that the case became removable. 28 USC § 1446.

3.

Wal-Mart Stores East, LP, a Delaware limited partnership, of which WSE Management, LLC is the general partner, and WSE Investment, LLC is the limited partner. The sole member of WSE Management, LLC and WSE

Investment, LLC is Wal-Mart Stores East, LLC, fka Wal-Mart Stores East, Inc., an Arkansas limited liability company. Wal-Mart Stores East, Inc. was converted to an Arkansas limited liability company on January 25, 2011. The principle place of business for all entities mentioned is 702 SW 8th Street, Bentonville, Arkansas 72716.

4.

Nola C. Marquez is a citizen of the State of Georgia.

5.

Complete diversity of citizenship exists between Plaintiff and Defendants.

6.

Plaintiff claims an annular tear at L4-5; epidural steroid injections; pain and suffering, past medical expenses of \$34,346.13, and future medical expenses; and past lost wages of \$908.66. The amount in controversy, exclusive of interest and costs, exceeds \$75,000.

7.

This action is removable pursuant to 28 U.S.C. §§ 1332, 1441, based on complete diversity of citizenship between Plaintiff and Defendants.

8.

Pursuant to the provisions of 28 U.S.C. § 1446, Defendants have attached as

Exhibit "D" copies of all the pleadings that were provided to and served upon Defendant, including copies of all pleadings that have been filed to date in the State Court of Houston County, Georgia for the above-styled case.

9.

Pursuant to 28 U.S.C. § 1446, Defendants are not required to file a removal bond.

10.

Written notice of the filing of this Notice of Removal will be given to all parties as required by 28 U.S.C. § 1446.

11.

A true and correct copy of this Notice of Removal will be filed with the Clerk of the State Court of Houston County, Georgia, as required by 28 U.S.C. § 1446.

WHEREFORE, Defendant WAL-MART STORES, INC. and WAL-MART STORES EAST, LP. prays that the above-captioned lawsuit be removed to the United States District Court for the Middle District of Georgia, Macon Division.

McLAIN & MERRITT, P.C.

/s/ Howard M. Lessinger

Howard M. Lessinger
Georgia State Bar No. 447088
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The undersigned counsel certifies that the foregoing Notice of Removal has been prepared with one of the font and point selections approved by the court in LR 5.1B.

/s/ Howard M. Lessinger

Howard M. Lessinger

CERTIFICATE OF SERVICE

This is to certify that on July 28, 2015, I electronically filed a **NOTICE OF REMOVAL** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to attorneys of record.

McLAIN & MERRITT, P.C.

/s/ Howard M. Lessinger

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Georgia State Bar No. 447088
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